

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 27, 2006

D049783 People v. Robinson

The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is dismissed without prejudice to refiling a notice of appeal after an appealable order or judgment has been entered.

D049295 In re Gilmore on Habeas Corpus

The petition is denied.

D046882 People v. Jaime

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Nares, J., McDonald, J.

D049676 Woodruff v. Superior Court of San Diego County/People

The petition is denied.

D049769 Guillen v. Superior Court of San Diego County/Cole et al.

For good cause shown the Superior Court of Imperial County is ordered to show cause why the relief requested should not be granted. Absent objection on or before December 5, 2006, the informal response will be deemed the return to the order to show cause. Petitioner may file a reply on or before December 15, 2006. The People may file a brief on or before December 15, 2006.

Any party who wishes to present oral argument must submit a letter to the court describing the thrust of the argument and include a time estimate. The letter must be submitted on or before December 20, 2006, or oral argument will be deemed waived. The trial scheduled for November 28, 2006, is stayed pending further order of this court.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 28, 2006

D048416 In re Elena P., a Juvenile

The judgment and order are affirmed. Nares, Acting P.J.; We Concur: McDonald, J., Irion, J.

D047345 Carboneau v. Salazar et al.

Affirmed. Irion, J.; We Concur: McDonald, Acting P.J., O'Rourke, J.

D046145 People v. Hermosillo, Jr.

The judgment is affirmed. O'Rourke, J.; We Concur: McDonald, Acting P.J., McIntyre, J.

D049320 In re Williams on Habeas Corpus

The petition is denied.

D047399 People v. Hunt

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 30.3).

D047722 Martinez v. Autozone, Inc.

The judgment is reversed, and this matter is remanded to the trial court for further proceedings. Irion, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D048172 People v. Brown

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, Acting P.J., McIntyre, J.

D046480 Cajon Valley Union School District v. Meram et al.

The judgment is affirmed. The District is to recover its costs on appeal. McIntyre, J.; We Concur: Benke, Acting P.J., Haller, J.

D046849 People v. Jones

The judgment of the trial court is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., McDonald, J.

D049265 In re Catilyn L., a Juvenile

The appeal is dismissed. Irion, J.; We Concur: Benke, Acting P.J., Haller, J.

D048645 Bean v. Superior Court of San Diego County

The order is reversed. The matter is remanded to the trial court with instructions to grant Bean's petition to change his name. McDonald, Acting P.J.; I Concur: Irion, J., I Dissent (by opinion): O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 28, 2006 (Continued)

D046669 People v. Badena

D048552 In re Badena on Habeas Corpus

The petition for rehearing is granted as to the cruel and unusual punishment issue raised by appellant in his second supplemental petition for writ of habeas corpus only. In all other respects, the petition is denied. The People shall file and serve a response to the cruel and unusual punishment issue by letter brief no later than December 12, 2006. The petitioner may file a reply no later than December 27, 2006. There shall be no further oral argument in this matter.

D049376 In re Brown on Habeas Corpus

The petition is denied.

D049472 Jeld-Wen, Inc. v. The Superior Court of San Diego County/UDC Homes, Inc.

The petition is denied.

D046667 People v. Foster

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., Haller, J.

D047327 Young v. Scully et al.

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D048468 Sony Electronics, Inc. v. Superior Court of San Diego County/Hapner et al.

Let a writ issue directing the superior court to vacate its order granting certification of a limited class and subclasses and to conduct further proceedings on the issue of whether class certification of a different class is appropriate. Each side is to bear its own costs in these proceedings. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

D048628 People v. Byrd

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., Aaron, J.

D048222 In re Audrey R., a Juvenile

The orders are affirmed. Irion, J.; We Concur: Nares, Acting P.J., McDonald, J.

D048288 Scalzitti v. Anderson et al.

The judgment is affirmed. Defendants are entitled to costs on appeal. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 28, 2006 (Continued)

D049493 Stephen v. Hernandez, Warden et al.

The petition is denied because petitioner had the opportunity to appeal the dismissal of San Diego Superior Court case number GIC480064 and did not avail himself of his appellate remedy. (See, e.g., Mauro B. v. Superior Court (1991) 230 Cal.App.3d 949, 952-953).

D049560 Tachiquin, Jr., et al. v. Tachiquin

Pursuant to California Rules of Court, rule 8, the appeal filed October 6, 2006, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rule 4(a) and 5(a)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 29, 2006

D044550 American Mortgage Network v. Loancity.com et al.

The petition for rehearing and request for publication are denied.

D049349 California Insurance Guarantee Association v. Workers' Compensation Appeals Board et al.

The petition is denied.

D049321 In re Hurn on Habeas Corpus

The petition is denied.

D048046 In re Marriage of Sander

The order modifying the MSA and ordering the family home sold is affirmed. Dale's request for attorney fees is denied. Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

D047881 Gelin v. Fisher Investments, Inc.

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., Haller, J.

D049375 In re Joel Brown on Habeas Corpus

The petition is denied.

D049825 In re Consiglio on Habeas Corpus

The petition is denied.

D049316 In re Joel Brown on Habeas Corpus

The petition is denied.

D048587 In re Marissa G., a Juvenile

Judgment of contempt annulled. Benke, Acting P.J.; We Concur: Nares, J., McIntyre, J.

D045987 Foss v. Gorse

Judgment Affirmed. Respondent to recover his costs on appeal. Benke, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

D049377 Lobos v. Workers' Compensation Appeals Board/Apparel Supplies of California et al.

The petition is denied. Real party in interest's request for sanctions is also denied.

D049828 7-Eleven Inc., et al. v. Jerry Jolly/Alcoholic Beverage Control Appeals Board

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 29, 2006

D046112 Divers' Environmental Conservation Organization v. State Water Resources Control Board et al./U.S. Department of the Navy et al.

Judgment affirmed. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.;
We Concur: Nares, J., Haller, J.

D047009 Marsicz et al. v. Movie Theatre Entertainment Group, Inc.

Upon written request filed by cross-appellant Movie Theatre Entertainment Group, Inc., to dismiss its cross-appeal, the cross-appeal filed on September 13, 2005, is dismissed and the remittitur is ordered to issue immediately as to the cross-appeal only. (Cal. Rules of Court, rule 20(c)(2)) Costs are awarded to cross-respondents Marsicz et al. The briefing sequence order filed on October 13, 2005, is vacated. The parties are directed to file briefing in compliance with the California Rules of Court. Respondent Movie Theatre Entertainment Group, Inc.'s, "Application to File Respondent's Brief in Excess of Word Limit" filed on November 29, 2006, is granted. Respondent's brief is deemed filed this date.

D049384 College Loan Corporation Inc., v. Superior Court of San Diego County/Mueller

The petition is denied. Petitioner has an adequate remedy by way of appeal.

D047261 City of San Diego Lifeguard Service v. Donald J. Riley

The City's motion to dismiss Riley's appeal is denied. The order is affirmed. The City shall recover its costs on appeal. Nares, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
November 30, 2006

D047635 People v. Ramirez

The judgment is affirmed. Aaron, J.; We Concur: McConnell, P.J., Huffman, J.

D048856 In re J.S., a Juvenile

The judgment is affirmed. Benke, J.; We Concur: McConnell, P.J., Nares, J.

D047400 People v. Engle

The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., Irion, J.

D047116 Crockett et al. v. Miller et al.

The award of compensatory damages is affirmed. The award of punitive damages is reversed and the matter is remanded for a retrial of that issue only. The parties are to bear their own costs on appeal. Nares, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

D046201 People v. Barkacs

The judgment is affirmed. Aaron, J.; We Concur: Benke, Acting P.J., Haller, J.

D047315 Estate of Connie Bryan, Deceased

The judgment is affirmed. Patricia is entitled to costs on appeal. McDonald, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D047599 Kimmins et al. v. Fagan & Fagan et al.

The judgment with respect to liability, compensatory damages, and the section 17200 judgment is affirmed. The judgment with respect to section 1021.5 fees is reversed with directions that the superior court deny Clients' motion for section 1021.5 fees. The judgment as to liability for punitive damages is affirmed, but the judgment as to the amount of punitive damages is reversed with the direction that the superior court is to: (1) enter judgment for punitive damages as against Fagan in a combined amount of \$47,800, or at Clients' option conduct a new trial on the proper amount of punitive damages against Fagan; and (2) enter judgment for punitive damages as against Law Firm in a combined amount of \$13,300, or at Clients' option conduct a new trial on the proper amount of punitive damages against Law Firm. The trial court shall enter a new and different judgment in accordance with this opinion. The parties shall bear their own costs on appeal. McDonald, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D048853 In re D.R.J., a Juvenile

The judgment is affirmed. McIntyre, J.; We Concur: Nares, Acting P.J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
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DIVISION ONE

November 30, 2006 (Continued)

**D047702 Paulson v. Abdelnour as City Clerk etc. et al./San Diegans for the Mt.
Soledad War Memorial/Shelby**

The holding of the trial court is reversed. Parties to pay their own costs on appeal. CERTIFIED FOR PUBLICATION. Benke, Acting P.J.; Huffman, J., Nares, J.

**D047857 The Oaks Management Corporation v. The Superior Court of San Diego
County/Ayyad et al.**

Let a writ of mandate issue directing the trial court to vacate its order granting Ayyad's motion to disqualify the TBM firm, and to enter a new order denying the motion. The plaintiffs are entitled to costs incurred in these proceedings. The stay issued on April 5, 2006, is vacated.

CERTIFIED FOR PUBLICATION McConnell, P.J.; We Concur: Benke, J., Nares, J.

**D049451 The Oaks Management Corporation et al. v. Superior Court of San Diego
County/Avocado Crest Condominiums et al.**

At the request of petitioners, the petition for writ of mandate is dismissed.

D047557 In re Abdulkadir A., a Juvenile

The petition for rehearing is denied.